

REMARKS

Claims 1 and 3-41 are pending in this application. Attached hereto is a complete listing of all claims in the application, with their current status listed parenthetically. By this Response, claims 8 and 9 have been amended, and are presented with markings to indicate their current amendments. Claim 2 has been cancelled, and claims 42-43 have been withdrawn as non-elected claims, without prejudice to later prosecution.

Rejection Under 35 U.S.C. § 112, 2nd paragraph

In paragraphs 2-5 of the Office Action, the Examiner rejects claims 8-9 as being indefinite. Applicant has amended both claims 8 and 9 in response to the Examiner's queries.

The above-described claim amendments have been drafted in response to the indefiniteness rejection, to impart precision into the claims by more particularly pointing out the invention. The claim amendments have not been drafted to overcome any prior art.

Rejection Under 35 U.S.C. § 102(e)

Pending claims 1, 3-4, 8, 14-21, 24, 30-38 and 40 stand rejected under 35 U.S.C. §102(e) as being anticipated by published U.S. patent application 2004/0109506 (“Hinton”). As discussed below, Applicant respectfully traverses this rejection.

As discussed in Applicant's 11 May 2005 response, the Hinton reference cannot be considered as prior art for making a *prima facie* case of unpatentability. Specifically, the Hinton reference indicates a file date of November 4, 2003. Applicant's application was filed July 31, 2003. Applicant's file date is prior to the Hinton file date.

However, Hinton claims priority to, and incorporates by reference, two provisional applications, serial numbers 60/423,697 and 60/423,709, both filed on November 4, 2002.

"Before answering Graham's 'content' inquiry, it must be known whether a patent or publication is in the prior art under 35 U.S.C. § 102" (M.P.E.P. 2141.01).

"[T]he subject matter of an abandoned application, including both provisional and nonprovisional applications, referred to in a prior art U.S. patent may be relied on in a 35 U.S.C. § 102(e) rejection based on that patent if the disclosure of the abandoned application is actually included or incorporated by reference in the patent" (M.P.E.P. 2127).

Thus, Hinton's filing date of November 4, 2003 eliminates it as a 35 U.S.C. § 102(e) reference. But, the subject matter of the November 4, 2002, provisional applications may support a 35 U.S.C. § 102(e) rejection if the subject matter contained in the provisional applications can actually support a 35 U.S.C. § 102(e) rejection.

A review of both provisional applications reveals only one figure (Fig. 13) disclosing any electrical circuit components that could be considered to anticipate the elements contained in Applicant's independent claims 1, 20 and 36.

However, Hinton's Fig. 13 does not include several claim elements found in Applicant's independent claims 1, 20 and 36.

Specifically, Applicant's independent claim 1 recites:

An electromagnetic pulse generator comprising:
a control unit;
at least two current sources;
at least two switching elements connected to the current sources, each of the switching elements structured to receive a signal from the control unit;
a switch connected to the at least two switching elements, the switch structured to receive a signal from the control unit;
a load connected to the switch; and
a first set of resistive elements connected to the current sources, and to the switching elements, the resistive elements also connected to a second voltage level.

A review of Hinton's Fig. 13 shows no "control unit," nor "a switch structured to receive a signal from the control unit."

Similarly, with regard to Applicant's originally-filed claim 20, Hinton fails to teach: 1) "a control unit;" 2) "a first set of switching elements connected to the first set of current sources, each of the first set of switching elements structured to receive a signal from the control unit;" 3) "a switch connected to the first set of switching elements, the switch structured to receive a signal from the control unit;" and 4) "a second set of switching elements connected to the switch, each of the second set of switching elements structured to receive a signal from the control unit."

Finally, with regard to Applicant's originally-filed claim 36, Hinton fails to teach a "control means for generating a plurality of digital signals."

Therefore, Applicant respectfully submits that the above discussion has traversed the rejection of independent claims 1, 20 and 36. Claims 3, 4, 8 14-19, 21, 24, 30-35, 37-38 and 40 depend from either claims 1, 20 or 36. Accordingly it is respectfully submitted that the rejection of claims 3, 4, 8 14-19, 21, 24, 30-35, 37-38 and 40 has been traversed by virtue of their dependency from any one of claims 1, 20 or 36. M.P.E.P. § 2143.03.

Rejection Under 35 U.S.C. § 103(a)

In paragraphs 8-14 of the Office Action, claims 5-7, 9-12, 13, 21-23, 26-29, 39 and 41 stand rejected as unpatentable under 35 U.S.C. § 103(a) over: Hinton and U.S. patent 6,735,238 (claims 5, 21, 41); or Hinton and U.S. patent 6,614,284 (claims 6-7, 22-23 and 28); or Hinton and published U.S. patent application 2003/0227980 (claim 9); or Hinton and published U.S. patent application 2003/0048212 (claims 10-12 and 26-27); Hinton and published U.S. patent application 2004/0109506 (claim 13 and 29); or Hinton and U.S. patent 6,653,993 (claim 39). As discussed below, Applicant respectfully traverses this rejection.

As discussed above, the Hinton provisional patent applications fail to teach several claim elements found in Applicant's independent claims 1, 20 and 36. Because claims 5-7, 9-12, 13,

21-23, 26-29, 39 and 41 depend from one of independent claims 1, 20 or 36, it is respectfully submitted that the rejection of claims 5-7, 9-12, 13, 21-23, 26-29, 39 and 41 have been traversed by virtue of their dependency from one of independent claims 1, 20 or 36 M.P.E.P. § 2143.03.

Conclusion

Applicant believes that this Response has addressed all items in the Office Action and now places the application in condition for allowance. Accordingly, favorable reconsideration and allowance of claims 1 and 3-41 at an early date is solicited. No fee is believed due with this response. However, the Commissioner is authorized to charge any fee required to our Deposit Account No. 50-3143, in the name of Pulse-Link, Inc. Should any issues remain unresolved, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

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Date



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